

REMARKS

This responds to the Office Action mailed on January 15, 2004.

Claims 24 and 25 are amended, and claim 23 is canceled. Claims 1-22 and 24-27 are now pending.

§102 Rejection of the Claims

Claims 23-25 were rejected under 35 USC § 102(a) as being allegedly anticipated by Volk et al. (U.S. 6,166,563). This rejection is respectfully traversed.

Claim 23 has been canceled. Therefore the rejection of claim 23 is moot.

Claims 24 and 25 have been rewritten into independent claims and, as now presented, contain the elements of originally-filed claim 23 from which each was originally dependent. Therefore, these amendments do not narrow the scope of either claim 24 or claim 25.

Claim 24 recites in part: "wherein each of the plurality of legs is identical."

Referring to claim 24, the Action at page 2 states that Volk et al. discloses that "each of the plurality of legs is identical (Fig. 2 ref. sign 210)." Applicants respectfully disagree. The Action does not point to any specific disclosure or teaching that the legs 210 of Volk et al. are identical. In fact, in column 2, at line 56-58, Volk et al. states "The driver may also include an anchor leg 210 which is identical to the remaining legs *except* that the anchor leg is not programmable." (emphasis added)

Claim 25 recites in part: "wherein each of the plurality of legs has a different strength."

Referring to claim 25, the Action at page 2 states that Volk et al. discloses that "each of the plurality of legs has a different strength (binary relationship, col.2 lines 51-55)." Applicants respectfully disagree.

Although Volk et al., at col. 2, line 51 states that the "output driver is made up of a number of legs 200 each of which provides a driver function with a certain amount of internal resistance," it does not necessarily follow that each of the legs have a different strength. For

example, this statement does not preclude the possibility that two of the legs have the same strength, nor preclude that two legs may provide a driver function having the *same* certain amount of internal resistance. Further, the Action states that Volk et al discloses at col. 2, line 54 that the “legs may be fabricated such that the strength of the legs has a binary relationship.” From this statement, it does not necessarily follow that each of the legs have a different strength. For example, this statement does not preclude the possibility that two of the legs have the same strength.

Therefore, claims 24 and 25 are believed to be patentable.

§103 Rejection of the Claims

Claims 1-3 were rejected under 35 USC § 103(a) as being allegedly unpatentable over Diepsraten et al. (U.S. 5,553,316). This rejection is respectfully traversed.

The Office Action has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. Applicants respectfully submit that the Office Action did not make out a *prima facie* case of obviousness because the cited reference fails to teach or suggest all of the elements of applicant’s claimed invention.

Claim 1 recites in part: “enabling a driver strength according to the determined distance.”

In contrast, the Action cites both Diepsraten et al., at col. 1, line 47 which states that the “method comprises the step of dynamically adjusting the power level of information packets transmitted between any two stations, in dependence on the signal path between said stations” and cites Diepsraten et al. at col. 2 line 53 which states that the:

receive signal is a function of the transmit level used, the distance between the transmitter and the receiver and the attenuation coefficient of the environment. In order to allow substantially error-free reception, the desired signal level should be substantially greater than any interference signal derived from the transmitters in other networks. The actual difference will depend on the modulation method used and the quality of the receiver design. Assume that the difference should be at least a value SIR (Signal to Interference Ratio).

Neither of these two quoted sections from Diepsraten et al. disclose, teach or suggest “enabling a driver strength according to the determined distance” as claimed in claim 1. For example, the Action did not show that the ‘signal path’ of Diepsraten et al is the determined

distance between the current location and the destination location, nor did the Action show that the ‘receive signal’ of Diepsraten et al is *enabling a driver strength*.

Therefore, Diepsraten et al. does not disclose, teach or suggest “enabling a driver strength according to the determined distance.” Accordingly, the Office Action did not meet the burden under 35 U.S.C. § 103 for establishing a *prima facie* case of obviousness. Applicants respectfully submit that claim 1 is therefore patentable.

Claims 2-3 depend on claim 1 and are patentable over Diepsraten et al. for the reasons argued above. If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is also nonobvious. MPEP § 2143.03. These dependent claims are also patentable in view of the additional elements which they provide to the patentable combination.

Claim 12 was also rejected under 35 USC § 103(a) as being allegedly unpatentable over Burton et al. (U.S. 5,012,489) in view of Volk et al. This rejection is respectfully traversed.

The Office Action has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). To do that the Office Action must show that some objective teaching in the prior art or some knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.*

In order for the Office Action to establish a *prima facie* case of obviousness, there must be some suggestion or motivation to modify the reference or to combine reference teachings. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. MPEP § 2143 and M.P.E.P. § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

Applicant respectfully submits that the Office Action did not make out a *prima facie* case of obviousness because it provides no evidence of a suggestion to combine the cited references.

The Action states on page 4 that ...”it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the invention of Volk et al. to the invention of Burton et al. so that the proper output data can be supplied to the logic section as in Volk et al.”

However, the Action does not disclose motivation or suggestion in Burton to look to Volk to modify Burton to form the claimed invention. Because neither a suggestion to make the claimed combination, nor a reasonable expectation of success thereof, was stated in the Action to be found in Burton, or in Volk, the Action did not establish a prima facie case of obviousness. Applicant respectfully submits that the Office Action has not provided evidence for a suggestion or motivation to combine the references.

Accordingly, Applicants submit that claim 12 is patentable.

Allowable Subject Matter

Claims 7-11, 14-22, 26 and 27 were allowed.

Claims 4-6 and 13 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 4-6 depend from claim 1, and claim 13 depends from claim 12. Because claims 1 and 12 are in condition for allowance, as discussed above; claims 4-6 and 13 are also allowable as originally submitted since they are dependant upon claims which are believed to be allowable. Applicants respectfully submit that claims 4-6 and 13 are in condition for allowance.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney, Lucinda Price at (352) 331-0202, or Applicant's below-named representative at (612) 373-6970 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date

March 15, 2004

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 15th day of March 2004.

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Signature